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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

EDRICK HARVEY individually and  
MARY OCTAVIA DORROUGH as  
guardian ad litem for minors AS and RH,

Plaintiffs,

vs.

City of Antioch, Antioch Police  
Department, Police Chief James Hyde,  
Acting Antioch Police Chief Allan  
Cantando, Detective James Stenger,  
Detective Michael Mellone, Detective D.  
Bittner (Badge 3252), Detective Wisecarver  
(Badge 2363), Detective Vincelet (Badge  
number unknown), Detective Mortimer  
(Badge number unknown), City of  
Pittsburg, Pittsburg Police Department,  
Police Chief Aaron L. Baker, and DOES 1  
to 100,

Defendants.

Case No. C11-04986 SBA

**STIPULATION AND ~~PROPOSED~~  
ORDER CONTINUING PRE-TRIAL AND  
TRIAL DATES DUE TO DEATH OF A  
PLAINTIFF**

Judge: Hon. Sandra B. Armstrong  
Trial Date: July 15, 2013

1 WHEREAS this civil rights action is currently pending in the above entitled Court.

2 WHEREAS a Plaintiff, Edrick Harvey, passed away unexpectedly on March 2, 2013 of  
3 what is believed to have been congestive heart failure.

4 WHEREAS Edrick Harvey is a named plaintiff and the mother of the other two plaintiffs  
5 in this civil rights case. Ms. Harvey was a single mother. She was not married, and her closest  
6 living relatives, other than her children, appear to live out of state. This sadly unexpected turn of  
7 events presents some difficult issues, including whether an estate is to be set up for Ms. Harvey  
8 and the care of Ms. Harvey's children, the two remaining plaintiffs. Plaintiff A.S. is a high  
9 school student who recently became 18 years old last January. Plaintiff R.H. turned 15 years old  
10 on March 2, 2013, the day his mother passed away. R.H.'s guardian ad litem for purposes of this  
11 litigation is Chelsea Stingley.

12 WHEREAS the family is in mourning. Ms. Harvey has yet to be buried. It is not clear at  
13 this point to Plaintiffs' Counsel who will be responsible for making decisions about setting up  
14 any potential estate and about continuing Ms. Harvey's claims in this litigation.

15 WHEREAS Plaintiffs' Counsel is serving and filing a Statement Noting The Death of  
16 Plaintiff Edrick Harvey, pursuant to Federal Rule of Civil Procedure, Rule 25(a)(1). Plaintiffs  
17 will then have 90 days after service of the statement to file a motion to substitute a "proper party"  
18 in the place of decedent Edrick Harvey, pursuant to FRCP 25(a)(1). Once decisions about how  
19 to proceed in this litigation can be made, Counsel for Plaintiffs will prepare a motion for  
20 substitution to ensure that all of the plaintiffs' interests are properly represented. Until such time,  
21 however, the parties cannot continue to litigate this case.

22 WHEREAS the parties are currently facing pending deadlines, including a deadline to file  
23 dispositive motions by no later than March 23<sup>rd</sup> 2013 (or earlier per the court's availability).  
24 However, at this point, there is no representative for Edrick Harvey and no such motions can be  
25 filed or defended at this time.

26 WHEREAS the approaching trial date of July 15, 2013, is also affected by this new and  
27 unfortunate development. Given the state of Ms. Harvey's family, Counsel for Plaintiffs cannot  
28

1 foresee at this time how long it will take to coordinate the issues involving Ms. Harvey's passing.

2 WHEREAS, given pending deadlines, the parties believe that the requested continuances  
3 are best handled through stipulation and proposed order rather than by noticed motion.

4 WHEREAS, THEREFORE, Plaintiffs and Defendants agree and respectfully request that  
5 all currently set pre-trial and trial dates should be vacated, including the deadline to file  
6 dispositive motions. They request that the Court set this matter for a case management  
7 conference in 90 days, or as soon thereafter as is convenient for the Court. By that time it is  
8 expected that the proper motion(s) should have been filed according to FRCP 25(a).

9 **IT IS HEREBY STIPULATED, AGREED, AND REQUESTED,** by and between the  
10 parties to this action, through their respective counsel, that the trial date and all other pre-trial  
11 deadlines should be vacated and a case management conference should be scheduled in 90 days,  
12 or as soon thereafter as the Court is available, to set a new trial date and new pre-trial deadlines.  
13

14 Dated: March 11, 2013

THE DOLAN LAW FIRM

15 By: 

16 Christopher B. Dolan  
17 Quinton B. Cutlip  
18 Attorneys for Plaintiffs  
19

20 Dated: March 11, 2013

MCNAMARA, NEY, BEATTY, SLATTERY,  
21 BORGES & AMBACHER LLP

22 By: 

23 James V. Fitzgerald, III  
24 Noah G. Blechman  
25 Attorneys for Defendants  
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**PROPOSED**  
**COURT ORDER**

**PURSUANT TO STIPULATION, THE COURT FINDS GOOD CAUSE TO MAKE  
THE FOLLOWING ORDERS:**

The currently set pre-trial and trial dates in this civil action are VACATED. The parties are ordered to appear for a further telephonic case management conference on JULY 17, 2013, at 2:30 ~~AM~~ p.m. The parties are to submit a joint case management conference statement no later than JULY 15, 2013.

**IT IS SO ORDERED**

DATED: 3/12/13

  
Hon. Saundra B. Armstrong  
United States District Court Judge